

Before the State of South Carolina
Department of Insurance

In the matter of:

Wilkes T. Martin, III,

149 Sunset Harbor

Inman, South Carolina 29349.

)
) SCDI File Number 2001-106124

)
) Consent Order

) Imposing Administrative Penalty
) and Reinstating License
)
)

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Wilkes T. Martin, III, a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact that Martin failed to timely pay the year 2000-2000 continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.2000) and Reg. 69-50 § VIII. Martin acknowledges that he did not pay the required fee on or before the May 1, 2000 deadline. Further, it appears that his failure to timely pay the CE fee resulted from his failure to notify the Department of a change of address as required by law. These acts ultimately led to the cancellation of Martin's license to transact the business of insurance as an agent in South Carolina.

Since then, Martin has expressed a desire to reinstate his license. He and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. The consensual recommendation was that the Department would reinstate Martin's resident insurance agent license upon his payment of the CE fee to the CE Administrator and an administrative penalty in the total amount of \$250 to the Department.

Section 38-43-106(D) of the South Carolina Code makes insurance agents "responsible for payment to the continuing education administrator of a reasonable annual fee for operation of the continuing education program." Section 38-43-107 requires insurance agents to notify the Department of Insurance within 30 days of any change in address. Section 38-43-130 states, in pertinent part, that the Director of Insurance may revoke an agent's license "when it appears that an agent...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law that Martin has not complied with S.C. Code Ann. §§ 38-43-107 and 38-43-106(D) and 25A S.C. Code Ann. Reg. 69-50 §VIII (Supp. 2000). As a result, the administrative action previously taken against his resident insurance agent license was proper. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2000), and after carefully considering the recommendations of the parties, I hereby impose against Martin an

administrative penalty in the total amount of \$250. If Martin pays that penalty within ten days of the date of my signature upon this consent order, and if he also provides proof of his having paid the CE fee, the Department will reinstate his resident insurance agent license.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Martin before, of Martin's self-reporting of this matter, and of his assurance that in the future he will comply with the state's insurance laws, particularly that of timely providing address change information and paying the CE fee. The parties expressly agree and understand Martin's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By his signature upon this consent order, Martin acknowledges that he understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Wilkes T. Martin, III shall, within ten days of the date of my signature on this consent order, pay through the Department an administrative penalty in the total amount of \$250.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Martin's licensing file.

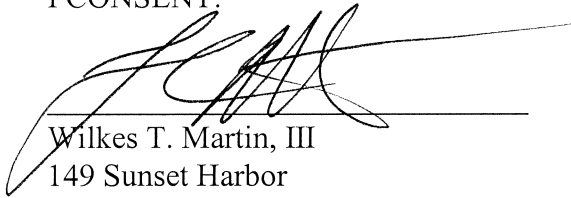
This consent order becomes effective as of the date of my signature below.

January 18, 2001, at
Columbia, South Carolina



Ernst N. Csiszar
Director

I CONSENT:

A handwritten signature in black ink, appearing to read 'W. T. Martin, III', is written over a horizontal line.

Wilkes T. Martin, III
149 Sunset Harbor
Inman, South Carolina 29349

Dated this ____ day of January, 2001